

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARCUS DUKES,)
v. Plaintiff,)
FEDERAL CORRECTIONAL)
INSTITUTION - MCKEAN, et al,)
Defendants.) C.A. No. 09-122 Erie

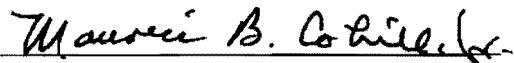
MEMORANDUM ORDER

Plaintiff's Complaint was received by the Clerk of Court on May 29, 2009, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation ("R&R"), filed on March 10, 2011, recommended that the motion to dismiss, or alternatively, for summary judgment, filed by Defendants (Doc. No. 29) be granted.

The parties were allowed fourteen (14) days from the date of service to file objections. No objections were filed. After *de novo* review of the pleadings and documents in the case, together with the report and recommendation, we adopt Magistrate Judge Baxter's March 10, 2011 R&R as the Opinion of the Court.

AND NOW, this 30th day of March, 2011, IT IS HEREBY ORDERED, ADJUDGED and DECREED that said report and recommendation (Doc. 34) is adopted as the Opinion of the Court. The motion to dismiss, or, alternatively, for summary judgment, filed by defendants (Doc. 29) is hereby granted. The Clerk of Courts is directed to mark this case CLOSED. Judgment is hereby entered in favor of the defendants.


Maurice B. Cohill, Jr.
United States District Judge

cc: Susan Paradise Baxter, U.S. Magistrate Judge
all parties of record _____